

PT 03-19

Tax Type: Property Tax

Issue: Religious Ownership/Use

STATE OF ILLINOIS  
DEPARTMENT OF REVENUE  
OFFICE OF ADMINISTRATIVE HEARINGS  
CHICAGO, ILLINOIS

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FULL GOSPEL CHRISTIAN  
CENTER of DOLTON,  
APPLICANT

v.

DEPARTMENT OF REVENUE  
OF THE STATE OF ILLINOIS

No. 01-PT-0087  
(00-16-2573)  
P.I.N.S: 25-27-100-030  
25-27-100-031  
25-27-100-032

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**RECOMMENDATION FOR DISPOSITION**

**APPEARANCES:** Mr. Joseph Peck, of Joseph Peck and Associates on behalf of the Full Gospel Christian Center of Dolton (the “applicant” or the “Center”); Mr. Marc Muchin, Special Assistant Attorney General, on behalf of the Illinois Department of Revenue (the “Department”).

**SYNOPSIS:** This proceeding raises the limited issue of whether applicant held any ownership interest in real estate identified by Cook County Parcel Index Numbers 25-27-100-030, 25-27-100-031 and 25-27-100-032 (hereinafter referred to in the collective as the “subject properties”) during the 2000 assessment year. The underlying controversy arises as follows:

Applicant filed a Real Estate Tax Exemption Complaint with the Cook County Board of Review (the “Board”), which sought to exempt the subject properties from 2000 real estate taxes under Sections 15-40 and 15-125 of the Property Tax Code, 35 ILCS 200/1-1, *et seq.* The Board reviewed this complaint and recommended to the Department

that all of the requested exemptions be granted. The Department, however, rejected the Board's recommendation by issuing a determination, dated October 18, 2001, finding that none of the subject properties were in exempt ownership during the 2000 assessment year. Dept. Ex. No. 1. Applicant filed a timely appeal to this determination and subsequently presented evidence at a hearing, at which the Department also appeared. Following submission of all evidence and a careful review of the record, I recommend that the Department's initial determination in this matter be affirmed.

**FINDINGS OF FACT:**

1. The Department's jurisdiction over this matter and its position therein are established by the admission into evidence of Dept. Ex. Nos. 1, 2 and 3.
2. The Department's position in this matter is that the subject properties were not in exempt ownership during the 2000 assessment year. Dept. Ex. No. 1.
3. Applicant is an Illinois not for profit corporation organized for purposes of carrying forth the revealed word of G-D as reflected in the Old and New Testaments of the Bible. Applicant Ex. Nos. 4, 5.
4. Applicant's by-laws provide, *inter alia*, that its chief executive officer shall be its pastor-president. Applicant Ex. No. 5.
5. Pastor Curtis Blackmon ("Pastor Blackmon") was applicant's pastor-president, and *ex officio* chief executive officer, throughout the 2000 assessment year. Tr. p. 15.
6. The subject properties are located in Chicago, IL and contain the following improvements:

<b>25-27-100-031 – Adjacent Parking Area</b>
<b>25-27-100-032 – Adjacent Parking Area</b>

Dept. Ex. No. 3; Applicant Group Ex. No. 7.

7. Pastor Blackmon and his wife, Betty (collectively the “Blackmons”), entered into “Articles of Agreement for Deed” and an accompanying “Installment Note,” through which they sought to purchase the subject properties for the Center, on March 13, 1987. Applicant Ex. Nos. 2, 3; Tr. pp. 17, 19-20.
8. Both the “Articles of Agreement for Deed” and the “Installment Note” named the Blackmons as individuals but did not contain any reference to, or mention of, the applicant itself. Applicant Ex. Nos. 2, 3.
9. The Installment Note provided, *inter alia*, that:
  - A. The Blackmons were to pay to the sellers the sum of \$61,000.00 plus interest; and,
  - B. The Blackmons were to pay this sum in installments of \$600.00 per month for 108 consecutive months commencing May 1, 1987, with a final payment of \$470.00 due on May 1, 1996.

Applicant Ex. No. 3.

10. All of the financial obligations arising under the Installment Note were satisfied from funds drawn on applicant’s corporate checking account, which listed “Full Gospel Christian Center” as the sole maker of all of the checks. Applicant Ex. Group Ex. No. 11.
11. Pastor Blackmon signed all of the checks used to pay all of the indebtedness that arose under the Installment Note. *Id*; Tr. p. 18.

12. All of this indebtedness was retired in a timely manner, with the final payment of \$470.00 being made, from funds drawn on applicant's corporate checking account, on April 15, 1996. Applicant Group Ex. No. 11.
13. After the indebtedness was retired, the Blackmons took title to the subject properties pursuant to the terms of two warranty deeds dated July 5, 1997. Applicant Ex. Nos. 12, 13.<sup>1</sup>
14. The deeds were executed on pre-prepared legal forms and named "Curtis J. Blackmon and Betty J. Blackmon, husband and wife," as owners of the subject properties. *Id.*
15. Betty Blackmon died sometime after the warranty deeds were executed. Following her death, Pastor Blackmon conveyed all of the subject properties to the applicant pursuant to the terms of a quitclaim deed dated April 27, 2001.<sup>2</sup> Applicant Ex. No. 15.
16. This deed named Pastor Blackmon and the late Mrs. Blackmon as grantors and the "Full Gospel Christian Center" as grantee of all the subject properties. *Id.*
17. Applicant held various prayer services, including a Christmas celebration and other devotionals, at the Church Center Facility throughout 2000. Applicant Group Ex. No. 17; Tr. pp. 27-28.

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1. One deed conveyed the Church facility situated on parcel index number 25-27-100-030; the other conveyed the adjacent parking facilities situated on parcel index numbers 25-27-100-031 and 25-27-100-032.

2. Pastor Blackmon's wife passed away at some unspecified point after she and her husband took title to the subject properties. The exact date of her death is not specified in the record. However, it is clear that Mrs. Blackmon died sometime in between the date when she and her husband took title, July 5, 1997, and the date when Pastor Blackmon executed the quit claim deed that provided applicant with nominal ownership of the subject properties, April 27, 2001.

## **CONCLUSIONS OF LAW:**

Article IX, Section 6 of the Illinois Constitution of 1970 states as follows:

The General Assembly by law may exempt from taxation only the property of the State, units of local government and school districts and property used exclusively for agricultural and horticultural societies, and for school, religious, cemetery and charitable purposes.

Pursuant to Constitutional mandate, the General Assembly enacted Sections 15-40 and 15-125 of the Property Tax Code (35 ILCS 200/1-1, *et seq.*, 15-40, 15-125), which, in relevant part, provide for exemption of the following:

### **200/15-40. Religious Purposes, orphanages, or school and religious purposes**

§ 15-40. All property used exclusively for religious purposes, or used exclusively for school and religious purposes, or for orphanages and not leased or otherwise used with a view to a profit ...[.].

35 ILCS 200/15-40.

### **200/15-125. Parking areas**

§ 15-125. Parking areas, not leased or used for profit, when used as part of a use for which an exemption is provided by this Code and owned by any school district, non-profit hospital, or religious or charitable institutions which meets the qualifications for exemption... [.]

35 ILCS 200/15-125.

Statutes conferring property tax exemptions are to be strictly construed so that all factual and legal inferences favor taxation. People ex rel. Nordland v. Home for the Aged, 40 Ill.2d 91 (1968); Gas Research Institute v. Department of Revenue, 154 Ill. App.3d 430 (1st Dist. 1987). Consequently, applicant bears the burden of proving that the property it is seeking to exempt falls within the pertinent statutory exemption. *Id.*

### **Exemption Under §15-40**

Prior to 1909, it was a requirement for the exemption of property used for religious purposes that it be owned by the organization that claimed the exemption. Since that time however, a statutory amendment eliminated that requirement. The test of exemption became use and not ownership. People ex rel Bracher v. Salvation Army, 305 Ill. 545 (1922). *See also*, American National Bank and Trust Company v. Department of Revenue, 242 Ill. App. 3d 716 (2nd Dist. 1993). However, both the plain language of Section 15-40 and Illinois case law prohibit exemption where property used exclusively for religious purposes is "leased or otherwise used with a view to profit ...[.]" Victory Christian Church v. Department of Revenue, 264 Ill. App. 3d 919 (1st Dist. 1988).

The Department contends profit may be found in the fact that at least one non-exempt, private individual, Pastor Blackmon, held legal title to the subject properties throughout 2000. Tr. p. 34. Although this is technically true, it is well established that technical refinements of title are not determinative of ownership for property tax purposes. People v. Chicago Title and Trust, 75 Ill.2d 479 (1979); Chicago Patrolmen's Association v. Department of Revenue, 171 Ill.2d 263 (1996). Rather, the determinative indicia of ownership are the right to control the property and the right to enjoy its benefits. *Id.*

Our courts have also recognized that, in some circumstances, exemptions should not be destroyed if practical business realities prevent an otherwise exempt organization from obtaining title in its own name. Christian Action Ministry v. Department of Local Government Affairs, 74 Ill.2d 51 (1978).<sup>3</sup> There, the Ministry obtained its interest in the property by means of a contract for warranty deed. The terms of this contract provided,

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3. *See also*, Cole Hospital v. Champaign County Board of Review, 113 Ill. App. 3d 96 (4th Dist. 1983) (due to troubled financial history and unavailability of State revenue bonds, appellee employed conveyance and lease-back arrangement to obtain equitable title to property used for charitable purposes).

*inter alia*, that: (1) the Ministry was to make a \$30,000.00 down payment and monthly payments of \$2,500.00 toward the purchase price;<sup>4</sup> (2) the Ministry was to be liable for payment of any and all real estate taxes levied against the property at issue; and, (3) no title, legal or equitable, was to pass to the Ministry until the deed was delivered or until the purchase price was paid in full. Christian Action Ministry, *supra*, at 54.

The court placed little if any significance on the last condition and specifically noted that:

Regardless of the status of title, [the Ministry] has a substantial monetary interest in the property and is liable for payment of real estate taxes. We cannot perceive any difference in kind between the conventional purchase money mortgage arrangement, which the Department concedes would qualify [the Ministry] for tax exempt status, and the contract for warranty deed which would justify disparate treatment for tax purposes. [Citations omitted].

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Had the Ministry arranged a mortgage loan for the property, it would have qualified for tax-exempt status. To penalize [an otherwise exempt entity] for failing to acquire the customary forms of financing, and hence, for making the alternative arrangement of a contract for sale of property in order to carry [out its otherwise exempt activities] runs counter to the stated policy objective and policy consideration of encouraging [such activities].

Christian Action Ministries, *supra*, at 61-62.

This case is very different from Christian Action Ministries in several key respects. First, the record fails to disclose whether the applicant, itself, was liable for the property taxes from which it is currently seeking exemption. Absent this information,

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4. The actual purchase price was unspecified in the court's opinion. Christian Action Ministries, *supra*, at 54.

Section 9-175 of the Property Tax Code<sup>5</sup> imposes liability for those taxes on the titled owner or owners of that property, Pastor Blackmon and his wife.

The deeds pursuant to which Pastor Blackmon and his wife obtained legal title to the subject properties indicated that the properties were being deeded to “Curtis J. Blackmon and Betty J. Blackmon, husband and wife.” Applicant Ex. Nos. 12, 13. These documents indicate on their face that Pastor Blackmon and his wife were acting in strictly personal capacities. Consequently, it must be assumed that they were to undertake any obligations arising under the deeds, including liability for any real estate taxes levied against the subject properties, as private individuals. Therefore, unlike Christian Action Ministries, this record does not clearly and convincingly establish that the applicant itself, which is the only entity that is legally entitled to receive the tax savings that result from an exemption granted under Section 15-40, will in fact receive those savings.

Furthermore, the record reveals a very substantial delay of more than four years from the date that the indebtedness for purchase of the subject properties was retired, April 15, 1996, and the date that those properties were actually conveyed to the applicant, April 27, 2001. *See*, Applicant Ex. Nos. 11, 15. The very length of this delay suggests that neither Pastor Blackmon nor his wife exercised appropriate due diligence in conveying these properties to applicant. At the very least, applicant has the burden to show that during these years, which include the year at issue, it had control of the property and that the benefits of this property did not inure to the Pastor and his wife.

Moreover, any residual doubts as to whether Pastor Blackmon and/or his wife obtained profit from maintaining private ownership of the subject properties throughout

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5. Section 9-175 of the Property Tax Code states, in relevant part, that “[t]he owner of property on January 1 in any year shall be liable for taxes of that year ...[.]” 35 ILCS 200/9-175.



the entire period of this substantial delay must be resolved in favor of taxation as a matter of law. People ex rel. Nordland v. Home for the Aged, 40 Ill.2d 91 (1968); Gas Research Institute v. Department of Revenue, 154 Ill. App.3d 430 (1st Dist. 1987). This is especially true in this case because applicant, which bears the burden of proof as to all elements of its exemption claim (*id.*), failed to provide any financial statements that disclose the nature of any financial dealings that Pastor Blackmon had with the applicant during the 2000 tax year.

Without this information, Pastor Blackmon's mere testimony indicating that he did not profit from such dealings (Tr. p. 18) does not overcome the doubts created by his failure to exercise appropriate due diligence in conveying the subject properties to applicant. Consequently, this testimony does not rise to the level of clear and convincing evidence necessary to sustain applicant's burden of proof. Therefore, the portion of the Department's determination pertaining to the church center facility situated on parcel index number 25-27-100-030 should be affirmed.

### **Exemption Under §15-125**

Parking areas, such as the ones located on the parcel index numbers 25-27-100-031 and 25-27-100-032, are subject to exemption under Section 200/15-125 of the Property Tax Code if they are: (1) owned by a school district, non-profit hospital, or religious or charitable institutions which meets the qualifications for exemption set forth in the applicable section(s) of the Code; (2) used as part of a use for which an exemption is provided in the Code and (3) not leased or otherwise used with a view to profit. 35 ILCS 200/15-125; Northwestern Memorial Foundation v. Johnson, 141 Ill. App.3d 309 (1<sup>st</sup> Dist. 1986).

Only the exempt ownership requirement is at issue in this case for the reasons set forth above. In addition, all aspects of the analysis pertaining to non-exempt ownership of the church center facility apply with equal force to the adjacent parking facilities. Therefore, the Department's initial determination with respect to these parking facilities should likewise be affirmed.

### **Summary**

Sections 15-40 and 15-125 of the Property Tax Code, 35 ILCS 200/1-1, *et seq.*, bar exemption where evidence pertaining to the ownership of real estate indicates that it is being used "with a view to profit." 35 ILCS 200/15-40, 15-125. In this case, the fact that a non-exempt, private individual, Pastor Blackmon, waited over four years to convey the subject properties to applicant establishes a lack of due diligence that cannot be overlooked. Accordingly, at the very least, I conclude that this delay raises doubts as to whether equitable ownership of the subject properties resided with the applicant church throughout the entire term of this delay.

Part of this term encompassed the tax year currently in question, 2000. Furthermore, all doubts that arise in property tax exemption cases must be resolved in favor of taxation as a matter of law. People ex rel. Nordland v. Home for the Aged, 40 Ill.2d 91 (1968); Gas Research Institute v. Department of Revenue, 154 Ill. App.3d 430 (1st Dist. 1987). Therefore, the Department's initial determination herein should be affirmed.

WHEREFORE, for the reasons set forth above, I recommend that real estate identified by Cook County Parcel Index Numbers 25-27-100-030, 25-27-100-031 and 25-27-100-032 not be exempt from 2000 real estate taxes under Sections 15-40 and 15-125 of the Property Tax Code.

Date: 8/11/2003

Alan I. Marcus  
Administrative Law Judge